

**CLEVELAND COUNTY BOARD OF COMMISSIONERS**

**January 19, 2010**

The Cleveland County Board of Commissioners met in a regular session on this date, at the hour of 6:00 p.m., in the Commission Chamber of the Cleveland County Administrative Offices.

**PRESENT:** Jo Boggs, Chairwoman  
Johnny Hutchins, Vice-Chairman  
Mary Accor, Commissioner  
Ronald J. Hawkins, Commissioner  
David C. Dear, County Manager  
Bob Yelton, County Attorney  
Kerri Melton, County Clerk  
April Crotts, Deputy Clerk  
Eddie Bailes, Assistant County Manager  
Chris Green, Tax Administrator  
Chris Crepps, Finance Director  
Bill McCarter, Planning Director  
Carol Wilson, Library Director  
David Allen, *The Star*  
Danielle Anzelone, *Cleveland Headline News*  
Other individual names on file in the Clerk's Office

**ABSENT:** Eddie Holbrook, Commissioner

**CALL TO ORDER**

Chairwoman Jo Boggs called the meeting to order and led the audience in the "Pledge of Allegiance" to the flag of the United States of America. Chairwoman Jo Boggs provided the invocation for the meeting.

**AGENDA ADOPTION**

**ACTION:** Mary Accor made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board, to ***adopt the agenda as presented by the County Clerk.***

**CONSENT AGENDA**

Prior to presentation of the consent agenda by County Manager David Dear, Commissioner Hutchins asked that an item be moved.

**ACTION:** Johnny Hutchins made the motion, seconded by Mary Accor, and unanimously adopted by the Board, to ***combine Item (H) Planning Department Code Text Amendment (Case #10-03)(Schedule public hearing for February 2, 2010) with Item (6) MORATORIUM ON SWEEPSTAKE BUSINESSES.***

**APPROVAL OF MINUTES**

There being no corrections, additions, or deletions to the Minutes of ***January 5, 2010***, motion was made by Mary Accor, seconded by Ronnie Hawkins, and unanimously adopted by the Board, to ***approve the minutes as written.***

**TAX COLLECTOR'S MONTHLY REPORT**

The Tax Collector provided Commissioners with the following detailed written report regarding taxes collected during **December 2009** (copy found on Page \_\_\_\_\_ of Minute Book 31).

**TAX ABATEMENTS AND SUPPLEMENTS**

The Tax Assessor provided Commissioners with a detailed written report regarding tax abatements and supplements during **December 2009**. The monthly grand total of tax abatements was listed as (\$29,204.29); and, the monthly grand total for tax supplements was listed as \$10,809.50.

**LEGAL: BUDGET AMENDMENT (BNA #038)**

**ACTION:** Mary Accor made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board, **to approve the following budget amendment:**

<u>Account Number</u>	<u>Department/Account Name</u>	<u>Increase</u>	<u>Decrease</u>
010.416.5.971.00	Legal/C/O Foreclosure Prop	\$6,591.	
010.410.4.991.00	General/Fd Bal Appropriated	6,591.	

Explanation of Revisions: To budget for the purchase of foreclosed property of parcel #18744. No upset bids were received.

**EMERGENCY MANAGEMENT: BUDGET AMENDMENT (BNA #039)**

**ACTION:** Mary Accor made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board, **to approve the following budget amendment:**

<u>Account Number</u>	<u>Department/Account Name</u>	<u>Increase</u>	<u>Decrease</u>
010.445.4.310.00/83552-4400	Emergency Mgt/Federal Grants	\$15,985.	
010.445.5.210.00/83552-4400	Emergency Mgt/Dept. Supply	13,852.	
010.445.5.894.00/83552-4400	Emergency Mgt/Budgetary Accting Only	2,133.	

Explanation of Revisions: To budget the grant amount awarded over the amount in the beginning budget that was estimated. This grant is the Emergency Management Performance Grant from the Dept. of Crime and Public Safety.

**EMERGENCY MANAGEMENT: BUDGET AMENDMENT (BNA #040)**

**ACTION:** Mary Accor made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board, **to approve the following budget amendment:**

<u>Account Number</u>	<u>Department/Account Name</u>	<u>Increase</u>	<u>Decrease</u>
010.445.4.310.00/97073-0033	Emergency Mgt/Federal Grants	\$2,971.	
010.445.5.310.00/97073-0033	Emergency Mgt/Travel/Training	2,971.	

Explanation of Revisions: To budget funds received for the Homeland Security 2008 Training Grant.

**EMERGENCY MEDICAL SERVICES: BUDGET AMENDMENT (BNA #041)**

**ACTION:** Mary Accor made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board, **to approve the following budget amendment:**

<u>Account Number</u>	<u>Department/Account Name</u>	<u>Increase</u>	<u>Decrease</u>
010.437.4.350.00	EMS/State Grants	\$12,500.	
010.437.5.910.00	EMS/Capital Equipment	12,500.	

Explanation of Revisions: To budget funds awarded for the purpose of a new 32' trailer for disaster preparedness.

**PLANNING DEPARTMENT: ZONING MAP AMENDMENT –DALE PARKER (Case 10-04)(vacant parcel along US74 near Sandy Run Creek) (Schedule a public hearing for February 2, 2010)**

**ACTION:** Mary Accor made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board to *approve scheduling the public hearing as requested.*

**BROAD RIVER GREENWAY PARKS AND RECREATION TRUST FUND (PARTF) GRANT**

At their January 5, 2010 regular meeting, Kim Duren presented Commissioners with information regarding a PARTF grant for the Broad River Greenway. During that meeting, Ms. Duren asked that she be allowed to come back and present and request approval of a resolution in support of the submittal of the application.

**ACTION:** Mary Accor made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board to *adopt the resolution as follows:*

**NUMBER 03-2010**

**In Support of Parks & Recreation Trust Fund Grant  
Broad River Greenway**

**WHEREAS,** the Broad River Greenway was identified as an important link in the Carolina Thread Trail Master Plan adopted by Cleveland County on January 5, 2010, and

**WHEREAS,** in 1996 Woolpert Consultants prepared a Master Plan for the development of the Broad River Greenway, and

**WHEREAS,** The Broad River Greenway was developed through a very successful public-private partnership, Cleveland County, Town of Boiling Springs, and the Broad River Greenway Council, and

**WHEREAS,** The Broad River Greenway is celebrating its 14th year of operation, and

**WHEREAS,** the Greenway now has visitation in excess of 100,000 visitors a year with the majority of that attendance falling between May and September, and

**WHEREAS,** the Greenway is faced with the need to expand facilities to accommodate these daunting numbers by increasing the number of recreational opportunities, such as orienteering, picnic stations, trail benches, group pack-in camping and trailhead with overnight parking, a low ropes course and refurbishing the existing canoe launch, and

**NOW THEREFORE BE IT RESOLVED,** that Cleveland County Board of Commissioners supports the application for matching grant funds from the Parks & Recreation Trust Fund to construct these additional facilities.

*Adopted this the 19th day of January, 2010*

**ECONOMIC DEVELOPMENT PROJECT (Schedule a public hearing for February 2, 2010 at 6:00 p.m.)**

**ACTION:** Mary Accor made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board to *approve scheduling the public hearing as requested.*

**REGULAR AGENDA**

**CLEVELAND COUNTY ANNUAL FINANCIAL REPORT**

Shane Fox of Martin Starnes & Associates, CPA's reviewed the Cleveland County 2009 Audited Financial Statements. Highlights included the fact that it was an unqualified opinion. Mr. Fox

described this as a “best opinion” or “an A+”. Other highlights included: no findings related to federal and state awards, no questioned costs and a very cooperative staff (*a copy of the full presentation is found on Pages \_\_\_\_\_ of Minute Book 31*).

### **CLEVELAND MEMORIAL LIBRARY ANNUAL REPORT**

Carol Wilson, Library Director shared a PowerPoint presentation showing the accomplishments of the Library System over the past year (*a copy of which is found on Pages \_\_\_\_\_ of Minute Book 31*).

### **MORATORIUM ON SWEEPSTAKES BUSINESS**

Earlier in the meeting, Commissioners approved combining a discussion about setting a public hearing regarding a code amendment with the discussion on adopting a moratorium on sweepstakes businesses. Bill McCarter began by discussing the code amendment.

Robert Sides, Mayor of Grover, sent a letter to County Manager David Dear explaining issues that the Town of Grover and other areas throughout the county are having with the Sweepstake Machine Industry. He has worked with the County Planning Department and has spoken with county officials and state government officials in an effort to eliminate the continued growth of those businesses which are operating without a permit. Mr. McCarter explained that zoning is “not like the police writing a ticket. It is a long process.” In his letter, Mayor Sides recommended Commissioners increase the civil penalty for a zoning violation from \$25 to \$200 per day. This is the maximum amount allowed by state statute. Increasing this penalty would affect all zoning violations not only those involving sweepstakes machines. Commissioner Hawkins voiced concern, “Since this text amendment would apply to all zoning violations, how would this affect others in the county?” Mr. McCarter explained that, since he has been Planning Director, there have only been two other instances where someone was fined for a zoning violation.

Currently, there are six businesses operating sweepstakes machines in the county zoning jurisdiction, and six in the Town of Grover. Commissioners were concerned with changing the code for the entire county for an issue that is concentrated in Grover. Commissioner Hutchins asked if there was a better and quicker way to help Grover with this situation. Mr. McCarter suggested that the Town of Grover revoke the business license, if the business did not have a valid zoning permit. He explained that the business license was a police power ordinance, which could be enforced quicker by the town. Mayor Sides explained that the town recently increased the license fee for this type business license to \$1,000, in an effort to deter the opening of these businesses. However, Mayor Sides explained, that the operators of these businesses are not getting a business liense for a sweepstakes business, but obtaining a business license for a copy center. They are applying for zoning permits through the County

Planning Department under the same false pretense. Mayor Sides has instructed the town police to handle the situation in any legal way that they can, and has asked for a recommendation from the Town Attorney. He explained that he is not “against these establishments“. “They have brought business to the town, but not the kind of business we want. I am more against the fact that they are not operating with a valid business license or zoning permit.”

Commissioner Hawkins asked how the City of Shelby and the City of Kings Mountain are addressing this issue. County Attorney Bob Yelton explained the City of Shelby and the City of Kings Mountain are also addressing these businesses through zoning rather than gambling. The City of Shelby fines are based on a graduated scale. Cities are addressing it this way because the Cleveland County District Attorney will not prosecute these businesses as gambling operations due to a loophole in state law. He explained that this is a hot topic all across the state of North Carolina. Different cities and counties are fighting this issue in different ways. There has been no definitive answer from the courts.

Due to the complexity of this issue, Commissioner Hutchins suggested that this be discussed further at a work session.

**ACTION:** Johnny Hutchins made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board, *to deny the request to schedule a public hearing for the code amendment and place this issue on the next work session for further discussion.*

In his letter to Mr. Dear, Mayor Sides also asked Commissioners to adopt a sixty-day moratorium on sweepstakes business zoning permits, to allow sufficient time to develop a code amendment. Mr. McCarter explained that this procedure was authorized by the Legislature in 2005. The ordinance establishing a moratorium must include these four points: clear statement of the problem, types of development approvals that will be subject to the moratorium, date for termination, and actions to be taken by the Board during the moratorium. A moratorium cannot be approved without a public hearing unless it poses a public health or safety risk. If it does not, Commissioners must treat it much like any code amendment. Should the moratorium be adopted, the county would not issue any zoning permits for sweepstakes businesses for 60-days.

Commissioners asked County Manager David Dear his opinion regarding this matter. Mr. Dear stated, “The moratorium would not really make a difference since those violating the zoning regulations are not being straight-forward about what business they are operating.”

**ACTION:** Johnny Hutchins made the motion, seconded by Mary Accor, and unanimously adopted by the Board, *to deny the request to schedule a public hearing on the moratorium and place this issue on the next work session for further discussion.*

**LATE APPLICATIONS FOR EXEMPTION~ELDERLY / DISABLED/VETERAN  
EXCLUSION**

Chris Green, Tax Administrator gave Commissioners a list of properties which represent those who have submitted application for the Elderly/Disabled /Veteran Exclusion after June 1<sup>st</sup>. Those applications filed after June 1<sup>st</sup> are considered untimely and are subject to approval by the Commissioners.

**ACTION:** Ronnie Hawkins made the motion, seconded by Mary Accor, and unanimously adopted by the Board, *to approve and accept the following late applications.*

**ELDERLY / DISABLED / VETERAN  
LATE APPLICATION FOR 2009**

NAME	PARCEL	TYPE	ELGIBILE
Nina Thurman	25384	DV	Y
Linda R. Wright	22603	E/D	Y
Patricia A. London	17743	E/D	Y
Ruth L. Greene	15015	E/D	Y
Stanley Ellis	3988/M114252	DV	Y
Freida Valcore	41202	E/D	Y
Amanda Blanton	13647	E/D	Y
Harry Coggins	28895	DV	Y
Max Long	5368	E/D	Y
Rita Roberts	12608	E/D	Y
Shirley Canipe	23701	E/D	Y
Betty Bridges Hopper	15593	E/D	Y
Tate Brackett Towery	24127	E/D	Y
Faye Wright Towery	22322	E/D	Y
Herbert Anthony	9650	E/D	Y
Rhonda Campbell Leonard	18639	E/D	Y
Imogene McGuire	34525	E/D	Y
Sue Ledford Lutz Trust	54710	E/D	Y
Jerry Wayne Adams	9727	DV	Y
Jerry Dale Scism	50630	DV	Y
Charles W. Edwards	32844	E/D	Y
Michael Burl Willis	48295	DV	Y
Hazel C Smith	10836	E/D	Y
Jeanette A Ross	10778	E/D	Y
Stella Downey	28686	E/D	Y
Estern Miller	70180	E/D	Y
Patti Martin Cooke	45966	DV	Y

**RESOLUTION IN SUPPORT OF THE AMERICAN LEGION WORLD SERIES**

**ACTION:** Johnny Hutchins made the motion, seconded by Mary Accor, and unanimously adopted by the Board, *to approve the resolution as follows:*

**NUMBER 04-2010**

**IN SUPPORT OF THE 2011 AMERICAN LEGION WORLD SERIES BID**

**WHEREAS,** in the summer of 2008, Cleveland County and the City of Shelby hosted a very successful American Legion World Series; and,

**WHEREAS,** even with the championship game postponement, the 2008 World Series ranked second in American Legion World Series history in attendance and first for gross revenues; and

**WHEREAS,** the Shelby host committee recognized the important relationship of the military to the American Legion World Series by holding several fabulous special events and tributes to the military giving Shelby the highest ranking, "Superior", for military ceremonies, which included recognition of the contributions and achievements of Cleveland County's own 878 Engineer Company (Vertical); a Blue Star Banner night to recognize family of, or anyone on Active Duty, Reservist or National Guard personnel who are currently mobilized and deployed in support of the Global War on Terrorism; and a Color Guard/Honor Guard provided by the 878<sup>th</sup> Engineer Company for the POW/MIA Ceremony for the Opening Banquet; and

**WHEREAS**, in hopes of making Shelby a permanent home for the American Legion World Series, Cleveland County, the City of Shelby, local businesses and many citizens have come together and offered financial support of Cleveland County's bid for the American Legion World Series; and

**WHEREAS**, big-city sophistication, small-town charm and southern hospitality are just a few of the qualities that help define the wonderful Cleveland County community. As evidenced by an American Legion World Series volunteer base of over three hundred, Cleveland County citizens are excited about the opportunity to share their community with thousands of visitors each summer; and

**WHEREAS**, Cleveland County is enthusiastic about the American Legion World Series bringing together players, managers, coaches, officials, parents and countless others from all over the world in an atmosphere of wholesome community activity;

**NOW, THEREFORE, BE IT RESOLVED**, that we, the Cleveland County Board of Commissioners on behalf of the citizens of Cleveland County, hereby support our community bid for the American Legion World Series.

**ADOPTED THIS THE 19<sup>th</sup> DAY OF JANUARY 2010.**

**KINGS MOUNTAIN ETJ: PLANNING AND ZONING BOARD APPOINTMENT**

Prior to calling for action to appoint an ETJ member to the Kings Mountain Planning and Zoning Board, Commissioner Boggs asked if there was anyone in the audience who was eligible and interested in serving on the board.

**ACTION:** Mary Accor made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board, *to re-appoint Doug Lawing to serve as ETJ representatives to the Kings Mountain Planning and Zoning Board, for a term scheduled to conclude on December 31, 2012.*

**CLEVELAND COUNTY BOARD OF ADJUSTMENT BOARD APPOINTMENT**

**ACTION:** Jo Boggs made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board, *to appoint Dobbins Lattimore to serve as a regular member of the Cleveland County Board of Adjustment to fill the unexpired term of Leon Leonhardt to expire on December 31, 2010.*

**ACTION:** Mary Accor made the motion, seconded by Johnny Hutchins, and unanimously adopted by the Board, *to appoint Warren Spikes to serve as an alternate member of the Cleveland County Board of Adjustment. This appointment does not carry a term length.*

**COMMISSIONER REPORTS**

Commissioner Hawkins mentioned the possibility of raising funds for the Highway 74 bypass. County Manager David Dear explained that the bypass would have to meet the standards of the NCDOT.

Commissioner Accor spent several days in Washington at a briefing where transportation was discussed as well as several other hot topics including education. Tomorrow, she will be meeting with Governor Perdue to discuss transportation issues in North Carolina. County Manager David Dear has given Commissioner Accor bullet points listing transportation issues in Cleveland County.

Several Commissioners attended events in honor of Martin Luther King.

**ADJOURN**

There being no further business to come before the Board at this time, Mary Accor made the motion, seconded by Ronnie Hawkins, and unanimously adopted by the Board, *to adjourn*. The next regular meeting will be held on *Tuesday, February 2, 2010, at 6:00 p.m.* in this Commission Chamber.

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*Rebecca Jo Powell Boggs, Chairwoman  
Cleveland County Board of Commissioners*

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*Kerri Melton, Clerk  
Cleveland County Board of Commissioners*